

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 02-17-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$650.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The office visits; hot/cold pack therapy, electrical stimulation, therapeutic activities and therapeutic exercises were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision is hereby issued this 2nd day of August.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 09-02-03 through 12-18-03 in this dispute. The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 2nd day of August 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution Officer
Medical Review Division
RL/dlh

IRO Certificate #4599

NOTICE OF INDEPENDENT REVIEW DECISION

June 26, 2004

Re: IRO Case # M5-04-1748 amended 7/20/04

Texas Worker's Compensation Commission:

___ has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule 133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to ___ for an independent review. ___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, ___ received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a physician who is Board Certified in Neurological Surgery, and who has met the requirements for TWCC Approved Doctor List or has been approved as an exception to the Approved Doctor List. He or she has signed a certification statement attesting that no known conflicts of interest exist between him or her and any of the treating physicians or providers, or any of the physicians or providers who reviewed the case for a determination prior to referral to ___ for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the ___ reviewer who reviewed this case, based on the medical records provided, is as follows:

Medical Information Reviewed

1. Table of disputed service 7/29/03 – 12/1/03
2. Explanation of benefits
3. Per review 12/4/03
4. Medical record review 7/4/03
5. CT myelogram lumbar spine report 4/1/03,
6. Electrodiagnostic report 11/8/02,
7. MRI of the lumbar spine 10/17/02
8. Operative report 1/16/03
9. 3/11/04 Review
10. RME 9/12/03

11. Orthopedic consult report 3/16/04
12. Operative report 8/21/03
13. Surgeon notes
14. D.C. treatment notes

History

The patient is a 29-year-old male who developed low back pain in ____ when he was lifting 75-100 pound crates. He was taken off work because of pain on 10/7/02. Around that time he moved, and changed his treating doctor. His discomfort continued. A 10/17/02 MRI of the lumbar spine showed possibly surgically significant changes at the L4-5 and L5-S1 levels. An 11/8/02 EMG suggested left S1 radiculopathy. The patient was treated with chiropractic treatment and epidural steroid injections without help. The second injection caused a negative reaction. The patient reportedly developed depression. Because of continued pain and findings on testing, a lumbar laminectomy, consisting of decompression of nerve elements at the L4-5 and L5-S1 levels was performed on 8/21/03. Post operatively, the patient continued to have discomfort. The patient was evaluated on 9/12/03 and it was suggested that a physical therapy program could be beneficial.

Requested Service(s)

OV, hot cold pack ther, elec stim, ther act, ther exer 9/2/03, 11/2/03

Decision

I disagree with the carrier's decision to deny the requested services.

Rationale

Additional consultation was obtained because of the patient's continued discomfort following surgery. That consultation led to the recommendation that physical therapy measures be pursued. Although they may be considered to be somewhat prolonged, it is not unusual for a few months of physical therapy to eventually become beneficial. All of the measures in dispute would be indicated. The office visits were appropriate for re evaluation while the physical therapy measures were being pursued.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.